



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. Box 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

OSTROLENK FABER GERB & SOFFEN
1180 AVENUE OF THE AMERICAS
NEW YORK NY 10036-8403

COPY MAILED

JUL 21 2005

OFFICE OF PETITIONS

In re Patent No. 6,827,682	:	
Issue Date: December 7, 2004	:	
Application No. 10/026,224	:	ON PETITION
Filed: December 19, 2001	:	
Attorney Docket No. P/1094-129	:	

This is a decision on the petition filed December 20, 2004, under 37 CFR 1.55(a) for late entry of a certified copy of the priority application after the patent has been granted.

The petition considered under 37 CFR 1.55(a) is **Dismissed As Moot**.

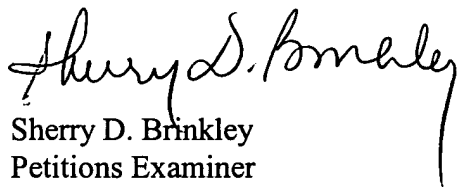
Under the rule (37 CFR 1.55), an applicant who wishes to secure the right of priority must comply with certain formal requirements within a time specific. If these requirements are not complied with, the right of priority is lost and cannot thereafter be asserted.

Specifically, the requirements of the rules are (a) that the applicant must file a claim for the right, (b) he or she must also file a certified copy of the original foreign application, and (c) these papers must be filed within a certain time limit. The maximum time limit specified in the rule is that the claim for priority and the priority papers must both be filed before the patent is granted. *See* 37 CFR 1.55. If the required papers are not filed within the time limit set, the right of priority is lost. As the record presently discloses that the certified copy of the priority document was not, as required by rule, filed in the above-identified application either during prosecution or prior to issuance of the application into a patent, the right of priority to the Swedish patent application is lost.

However, a reissue was granted in Brenner v. State of Israel, 400 F.2d 789; 158 USPQ 584 (D.C. Cir. 1968), where the only ground urged was applicant's failure to file the certified copy of the original foreign application under 35 U.S.C. § 119 before the patent was granted. Under the circumstances of this case, petitioner may wish to seek relief from his predicament by way of reissue under 35 USC § 251. *See* MPEP 1417 and 201.14(a).

The petition fee is not being refunded, since the petition has been considered, notwithstanding the decision. See Ex parte VENTURA CITRUS ASSOCIATION, 71 USPQ 103, 104 (Comm'r Pat. 1946).

Telephone inquiries should be directed to Sherry Brinkley at (571) 272-3204.



Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy



Frances M. Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy